

	OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS CUSTOMS HOUSE, MUNDRA, KUTCH- GUJARAT -370421 PHONE : 02838-271426/271428 FAX :02838-271425 E-mail: adj-mundra@gov.in	
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A	FILE NO./ फाइल संख्या	GEN/ADJ/ADC/527/2025-Adjn-O/o Pr Commr-Cus-Mundra
B	OIO NO./ आदेश संख्या	MCH/ADC/ZDC/ 257/2025-26
C	PASSED BY/ जारीकर्ता	Dipak Zala, ADDITIONAL COMMISSIONER, Customs House, Mundra.
D	DATE OF ORDER/ आदेश की तारीख	24.09.2025
E	DATE OF ISSUE/ जारी करने की तिथि	24.09.2025
F	SCN No. & Date/ कारण बताओ नोटिस क्रमांक	GEN/ADJ/ADC/527/2025-Adjn-O/o Pr. Commr-Cus-Mundra dated 27.02.2025
G	NOTICEE/ PARTY/ IMPORTER नोटिसकर्ता/पार्टी/आयातक	1. M/s. ABS International (IEC: DROPS3537Q) 2. Sh. Anuj Amarbahadur Singh, Proprietor of M/s. ABS International 3. M/s. Senghi Shipping Services, Custom House Agent
H	DIN/ दस्तावेज़ पहचान संख्या	20250971MO000000D313

1. यहआदेश संबंधित को निःशुल्क प्रदान किया जाता है।
2. This Order - in - Original is granted to the concerned free of charge.
3. यदि कोई व्यक्ति इस आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1 में चार प्रतियों में नीचे बताए गए पते परअपील कर सकताहै-
4. Any person aggrieved by this Order - in - Original may file an appeal under Section 128A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

**“सीमाशुल्कआयुक्त (अपील),
चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,
नवरंगपुरा, अहमदाबाद 380 009”**

**“THE COMMISSIONER OF CUSTOMS (APPEALS),
HAVING HIS OFFICE AT 4TH FLOOR, HUDCO BUILDING, ISHWAR BHUVAN ROAD,
NAVRANGPURA, AHMEDABAD-380 009.”**

5. उक्तअपील यहआदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।

Appeal shall be filed within sixty days from the date of communication of this order.

6. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-

Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must be accompanied by –

(i) उक्त अपील की एक प्रति और

A copy of the appeal, and

(ii) इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं°-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

7. अपील ज्ञापन के साथ ऊँटी/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।

Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

8. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमाशुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

9. इस आदेश के विरुद्ध अपील हेतु जहाँ शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहाँ केवल जुर्माना विवाद में हो, Commissioner (A) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

M/s ABS International (IEC No. DROPS3537Q) (herein referred to as "importer") having registered address at Shop No. 57, Ground Floor, Plot No. 55, Sector 15, CBD, Belapur, Navi Mumbai-400614 was engaged in import of Socks, Electric Balloon pumps, Girl's leggings, Men's T- shirt, Woollen pant, etc. from China. The subject import consignment was imported vide Bill of Entry No. 5831437 dated 27.09.2024 at Mundra Port and to be cleared through M/s. Saurashtra CFS, Mundra Port & SEZ, Mundra, Gujarat-370421.

2. The Directorate of Revenue Intelligence (hereinafter referred to as "DRI") gathered intelligence that M/s. ABS International had imported one consignment of Socks, Electric Ballon pumps, Girl's leggings, Men's T- shirt, Woollen pant, etc. from China through Container No. BMOU6373410. The subject goods were found to be grossly mis-declared, undervalued, mis-classified and also having undeclared goods.

3. Acting upon the intelligence, the above import consignment was put on hold vide mail dated 26.09.2024 and examination of the goods was conducted by the officers of DRI under panchnama dated 01.10.2024. The description of the goods as declared in the Bills of Lading pertaining to the said import consignments is reproduced in **Table-1**, whereas the description of the goods as declared in Bill of Entry No. 5831437 dated 27.09.2024 is reproduced in **Table-2 hereunder:-**

Table-1

S. N o	Bill of Lading No. & date	Name of the consignee (M/s.)	Shipper (M/s.)	Item Description	Quantity	Container No.
1	KMTCNBO8196 019 dated 31.08.2024	ABS International (IEC- DROPS3537Q)	Amanda International Co. Limited, Flat/RM A 12/F ZJ 300, 300 Lockhart Road Wan Chai HK	Socks HS: 61169990	486 cartons	BMOU6373 410

Table-2

Goods declared in Bill of Entry No. 5831437 dated 27.09.2024

Sr.No .	CTH	Description of Goods	Quantity	UQC	Amount (USD)
1	61159500	SOCKS (UNBRANDED)	8317	DOZ	2661.44
2	84142090	AIR PUMP	576	PCS	576
3	85051190	MAGNET (PAC OF MAGNET 6765)	2767.5	KGS	2706
4	39269099	GLITTER POWDER (PAC OF GLITTER POWDER 201)	180.9	KGS	160.8
5	90191090	STICK MASSAGER	600	PCS	300
6	96180000	DUMMY	40	PCS	30
7	84149090	NECK FAN	600	PCS	150
8	65050090	WOOLEN CAP (UNBRANDED)	2400	PCS	360
9	62121000	WALLET (UNBRANDED)	795	PCS	159

10	61159600	LEGGINS (UNBRANDED)	365	DOZ	438
11	62121000	BRA (UNBRANDED)	8650	PCS	865
12	61082210	PANTY (UNBRANDED)	2799	PCS	55.98
13	61099090	T-SHIRT (UNBRANDED)	1904	PCS	952
14	61121930	TRACK PAINT (UNBRANDED)	2101	PCS	1134.54
15	62071990	THERMAL (UNBRANDED)	105	PCS	126
16	61071990	MENS UNDERWEAR (UNBRANDED)	6600	PCS	660
17	61071990	TRUNK (UNBRANDED)	8000	PCS	800
Total (USD)					12134.76

4. During the course of examination of the goods, it was observed that different types of items i.e. socks (ankle socks, knee socks, etc.), electric balloon pumps, men's T-shirts (full-sleeve and half-sleeve), men's track pants, etc., of assorted sizes, colours, and designs were found packed in brown corrugated boxes. It was further observed that certain goods were misclassified, undeclared and mis-declared. The goods appeared to be of good quality and *prima facie*, were found to be highly undervalued vis-à-vis the value declared by the importer, in addition to being misclassified/mis-declared. An inventory of the imported goods was accordingly prepared during examination, which is reproduced in the Table-3:

Table-3

Details of the goods of the container BMOU6373410, BL No. KMTCNBO8196019 dated 31.08.2024 of Importer M/s. ABS International as per Panchnama dated 01.10.2024.					
Sr. No.	Goods Description	No. of PP Bags/cartons	No. of Pcs in 1 Bag/cartons	Total No. of PCs	Remarks
1	Ankle Socks	49	1200	58800	
2	Ankle Socks	9	1000	9000	
3	Knee Socks	13	1200	15600	
4	Socks Packing Polythene & Box	1	15.370 Kgs	15.370 Kgs	
5	Bra Packing Boxes	1	600	600	
6	Bra Stickers	1	1000	1000	
7	Dummy Hands	1	71	71	
8	Dummy Legs	2	10	20	
9	Electric Balloon Pumps	48	12	576	HT-508 Electric balloon Pump, Stermay Brand
10	Electric Massage Stick	6	100	600	Massage Stick - Double Vibration
11	Electric Neck Fan (Air Cooler & Purifier)	10	60	600	Wearable Air Cooler and Purifier, Arctic Air Freedom Brand
12	Girls Leggings	2	120	240	
13	Girls Leggings	3	180	540	
14	Girls Leggings	21	240	5040	
15	Girl's Pazama	10	192	1920	
16	Girl's Pazama	6	200	1200	
17	Men's Full sleeve T-shirts	2	288	576	
18	Men's Half sleeve T-shirts	9	240	2160	
19	Men's Half sleeve T-shirts	1	330	330	
20	Men's Half sleeve T-shirts	4	180	720	
21	Men's Half sleeve	1	350	350	

	T-shirts				
22	Men's Track Pants	9	80	720	
23	Men's Track Pants	2	200	400	
24	Men's Track Pants	4	100	400	
25	Men's Track Pants	2	210	420	
26	Men's Track Pants	1	240	240	
27	Men's Track Pants	3	270	810	
28	Men's Track Pants	1	325	325	
29	Men's Track Pants	1	208	208	
30	Men's Track Pants	1	300	300	
31	Men's Track Pants	1	350	350	
32	Men's Trouser	1	180	180	
33	Men's Underwear	11	1200	13200	
34	Men's Underwear	18	720	12960	
35	Men's Underwear	5	1120	5600	
36	Men's Underwear	2	1512	3024	
37	Nail Glitter	7 Box containing Glitter Packets, 1 Brochure Diary and 1 electric nail spreader	200.4 Kgs.	200.4 Kgs.	
38	Nipple Cowen	1	100	100	
39	Nipple Cowen	1	200	200	
40	Silicon Bra with packing boxes	4	150	600	
41	Physics Teaching Super Magnet	123	52	6396	MKDVR Super Magnet, Physics Teaching, Super Magnetic Force, 30 pairs in each packet, 3+ Ages, Weight of 1 PP Bag is approx 24.670 Kgs.
42	Thermal Pant	1	30	30	
43	Thermal Vest	6	30	180	
44	Women's Bra	2	30	60	
45	Women's Bra	7	120	840	
46	Women's Bra	22	600	13200	
47	Women's Bra	3	240	720	
48	Women's Bra	1	180	180	
49	Women's Bra	1	216	216	
50	Women's Bra	1	50	50	
51	Women's Bra	5	360	1800	
52	Women's Free Size Padded Bra	2	360	720	
53	Women's Padded Bra	1	300	300	
54	Women's Padded Bra	1	80	80	
55	Women's Padded Bra	1	180	180	
56	Women's Panty	2	1500	3000	
57	Women's Panty	1	200	200	
58	Women's Panty	2	1300	2600	
59	Woolen Cap	1	1200	1200	
60	Woolen Cap	6	600	3600	
61	Woolen Leggings	4	120	480	
62	Woolen Pant	3	72	216	
63	Wallet	4	200	800	

64	Yarn	1	14.760 Kgs	14.760 Kgs	
65	Women's Bra Long size	1	11	11	
	Charging Socket		2	2	
	Rubber Bushes		300	300	
	Total	477			

5. Further, during the course of examination, in order to ascertain the actual value of the import goods, a Custom empanelled Chartered Engineer was called at the examination site i.e. M/s. Saurashtra CFS, Mundra on 01.10.2024. The said Chartered Engineer inspected and examined the imported goods at M/s Saurashtra CFS, Mundra on 01.10.2024 in respect of BL No. KMTCNBO8196019 dated 31.08.2024 and B/E no. 5831437 dated 27.09.2024.

6. During the course of investigation, in order to collect the evidence/corroborative evidence, the statements of following persons who were directly/indirectly involved in importation/clearance of goods were recorded by the DRI under the provisions of Section 108 of Customs Act, 1962.

6.1 Statement of Shri Anuj Amarbahadur Singh, proprietor of M/s. ABS International was recorded on 04.10.2024, 09.10.2024, 28.11.2024 and 13.01.2025 wherein he inter alia stated as under:-

- (i) M/s. ABS International is a proprietorship firm in his name and import clearance and trading of imported goods was handled by him.
- (ii) checklist was approved by him on the basis of commercial invoice no. AI20240831 dated 31.08.2024 and packing list forwarded by overseas supplier. He authorised Customs Broker i.e. M/s. Senghi Shipping Services for Customs Clearance of the subject consignment.
- (iii) invoice containing 11 items was a proforma invoice and bill of entry was filed on the basis of final invoice containing 17 items as received from supplier.
- (iv) he acknowledged undeclared items were found to be in consignment such as nipple cowen(fabric/silicon), silicon bra, woolen leggings, woolen pants, long bralette, charging socket, rubber bushes. He further stated that he was willing to pay the applicable differential duties in relation to excess cargo whether declared or undeclared.
- (v) he did not agree with the valuation report CE/MUN/DRI-012/2024-25 dated 12.12.2024 of the Customs Empanelled Chartered Engineer as it was roughly three times higher than the value declared in the subject bill of entry.

6.2 Statement of Shri Himanshu Kumar Singh (G-card holder) of M/s. Senghi Shipping Services (Custom House Agent) was recorded on 04.10.2024 wherein he inter alia stated as under:-

- (i) an individual contacted him on behalf of M/s. ABS International for customs clearance work. Assurance was given by the importer that there was no risk associated with the consignment and the importer would be present during the customs clearance process.
- (ii) he approached CFS for seal-intact verification on 01.10.2024, he came to know that the subject consignment has been put on hold by DRI.

(iii) he noted that the goods were declared as "socks" under HS code 61169990 in the bill of lading. However, checklist was filed on the basis of commercial invoice no. AI20240831 dated 31.08.2024 and packing list forwarded by the importer through e-mail dated 26.09.2024.

7. Findings of investigation:

7.1 During examination of the goods, it was found that goods have been mis-declared/mis-classified/undeclared in terms of value, CTH and quantities in order to evade applicable customs duty. Custom empanelled Chartered Engineer submitted his valuation report CE/MUN/DRI-012/2024-25 dated 12.12.2024 to DRI. CE examined the goods and determined their value USD 37828.72/- or Rs. 32,00,310/- (37828.72 * 84.6= 32,00,310/-, 1 USD= 84.6 INR) (Thirty-Two Lakhs three hundred and ten only), however the declared value of the subject consignment is Rs. 10,26,600/- (Rs. Ten Lakhs Twenty-Six Thousand and Six hundred only). It is evident that importer had highly undervalued the said goods. Further, Importer declared 17 items in the subject bill of entry whereas more than 17 items were found during the examination of the consignment. Such misdeclaration led to the concealment of excess goods and undervaluation. Details are set out in the table below:

Table-4

Sr. No .	Sr. No. of the Annexure B of Panchnama dated 01.10.2024	Goods appears to be	Details as per Annexure-B to panchnama dated 01.10.2024				Value as per Valuation report dated 12.12.2024 of Chartered Engineer in (USD)	Total pieces /quantity declared in Bill of Entry 583143 dated 27.09.2024	Value declared in Bill of Entry 583143 dated 27.09.2024 in (USD)
			No. of PP Bags/cartons	No. of Pcs in 1 Bag/ cartons	Total No. of PCs	Total Pieces			
1	2	3	4	5	6	7	8	9	10
1	1	Ankle Socks	49	1200	58800	83400	5628	99804	2661.44
	2	Ankle Socks	9	1000	9000				
	3	Knee Socks	13	1200	15600				
2	9	Electric Balloon Pumps	48	12	576	576	1152	576	576
3	41	Physics Teaching Super Magnet	123	52	6396 (3034.41Kg)	6396 (3034.41 Kg)	9338.16	2767.5 Kg	2706
4	37	Nail Glitter	7 Box containg Glitter Packets, 1 Brochure Diary and 1 electric nail spreader	200.4 Kgs.	200.4 Kgs.	200.4 Kgs	146.29	180.9 Kg	160.8
5	10	Electric Massage Stick	6	100	600	600	1002	600	300
6	7	Dummy Hands	1	71	71	91	45.84	40	30

	8	Dummy Legs	2	10	20				
7	11	Electric Neck Fan (Air Cooler & Purifier)	10	60	600	600	876	600	150
8	59	Woolen Cap	1	1200	1200	4800	480	2400	360
	60	Woolen Cap	6	600	3600				
9	63	Wallet	4	200	800	800	448	795	159
10	12	Girls Leggings	2	120	240	6300	2772	4380	438
	13	Girls Leggings	3	180	540				
	14	Girls Leggings	21	240	5040				
	61	Woolen Leggings	4	120	480				
11	44	Women's Bra	2	30	60	18346	3958.26	8650	865
	45	Women's Bra	7	120	840				
	46	Women's Bra	22	600	13200				
	47	Women's Bra	3	240	720				
	48	Women's Bra	1	180	180				
	49	Women's Bra	1	216	216				
	50	Women's Bra	1	50	50				
	51	Women's Bra	5	360	1800				
	52	Women's Free Size Padded Bra	2	360	720				
	53	Women's Padded Bra	1	300	300				
	54	Women's Padded Bra	1	80	80				
	55	Women's Padded Bra	1	180	180				
12	56	Women's Panty	2	1500	3000	5800	870	2799	55.98
	57	Women's Panty	1	200	200				
	58	Women's Panty	2	1300	2600				
13	17	Men's Full sleeve T-shirts	2	288	576	4136	1842.88	1904	952
	18	Men's Half sleeve T-shirts	9	240	2160				
	19	Men's Half sleeve T-shirts	1	330	330				
	20	Men's Half sleeve T-shirts	4	180	720				
	21	Men's Half sleeve T-shirts	1	350	350				
14	22	Men's Track Pants	9	80	720	4173	2169.96	2101	1134.54

	23	Men's Track Pants	2	200	400				
	24	Men's Track Pants	4	100	400				
	25	Men's Track Pants	2	210	420				
	26	Men's Track Pants	1	240	240				
	27	Men's Track Pants	3	270	810				
	28	Men's Track Pants	1	325	325				
	29	Men's Track Pants	1	208	208				
	30	Men's Track Pants	1	300	300				
	31	Men's Track Pants	1	350	350				
15	42	Thermal Pant	1	30	30	210	138.3	105	126
	43	Thermal Vest	6	30	180				
16	33	Men's Underwear	11	1200	13200	18800	2820	6600	660
	35	Men's Underwear	5	1120	5600				
17	34	Men's Underwear	18	720	12960	15984	2397.6	8000	800
	36	Men's Underwear	2	1512	3024				

Goods Not Declared in the B.E. 5831437 dated 27.09.2024

Sr. No.	Sr. No. of the Annexure B of Panchnama dated 01.10.2024	Goods appears to be	Details as per Annexure-B to panchnama dated 01.10.2024				Value as per Valuation report dated 12.12.2024 of Chartered Engineer in (USD)
			No. of PP Bags/ cartons	No. of Pcs in 1 Bag/cartons	Total No. of PCs	Total Pieces	
18	4	Socks Packing Polythene & Box	1	15.370 Kgs	15.370 Kgs	15.370 Kgs	4.76
19	5	Bra Packing Boxes	1	600	600	600	6
20	6	Bra Stickers	1	1000	1000	1000	10
21	15	Girl's Pazama	10	192	1920	3120	1372.8
	16	Girl's Pazama	6	200	1200		
22	32	Men's Trouser	1	180	180	180	55.8
23	38	Nipple Cowen	1	100	100	300	18
	39	Nipple Cowen	1	200	200		
24	40	Silicon Bra with packing boxes	4	150	600	600	78
25	62	Woolen Pant	3	72	216	216	179.28
26	64	Yarn	1	14.760 Kgs	14.760 Kgs	14.760 Kgs	5.61
27	65	Women's Bra Long size	1	11	11	11	3.41
		Charging Socket		2	2	2	0.76

		Rubber Bushes		300	300	300	9
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7.2 This significant discrepancy clearly indicates deliberate misclassification and misdeclaration on the part of the importer. It was observed that these items were not declared with specific descriptions, quantities and HS Codes in the Bill of Lading, the invoice and the packing list.

7.3 Further, data retrieval from the mobile phone of Shri Krishna Nand Shahi alias Shri Krishna Shahi was carried out at the Cyber Forensic Laboratory, Ground Floor, DRI, Mumbai Zonal Unit, Mumbai, under Panchnama dated 12/13.11.2024. From the retrieved data, an invoice bearing No. AI20240831 dated 31.08.2024 containing 11 items with a total CIF value of USD 11,601.59 was obtained along with chat conversations between Shri Krishna Nand Shahi and Shri Anuj Amar Bahadur regarding the subject import consignment under investigation.

In his statement dated 28.11.2024, Shri Anuj Amar Bahadur admitted that he had initially received a commercial invoice No. AI20240831 dated 31.08.2024 from his overseas supplier containing 11 items which he considered as a proforma invoice. He further admitted that he subsequently received another invoice bearing the same number and date from the overseas supplier containing 17 items for the same consignment, thereby indicating that he was arranging preparation of invoices and packing lists as per his own choice through the Chinese suppliers.

8. SEIZURE:

The said goods covered under Bill of Entry No. 5831437 dated 27.09.2024 were mis-declared in terms of quantity and value and mis-classified in terms of CTH with undeclared cargo, therefore, there being a reasonable belief that the said goods are liable for confiscation under the provisions of Section 111 of the Customs Act, the same were placed under seizure under Section 110 of the Customs Act, 1962 vide Seizure Memo dated 24.12.2024.

9. Rejection of transaction value of the imported goods and re-determination of the value of the import goods:

9.1 M/s. ABS International imported a consignment under bill of entry no. 5831437 dated 27.09.2024 at Mundra Port which was examined by officers of DRI under Panchnama dated 01.10.2024. During the course of examination, 477 cartoons found in container no. BMOU6373410 containing assorted goods such as socks (ankle socks, knee socks, etc.), electric balloon pumps, men's T-shirts (full and half sleeves), and men's track pants of different sizes, colours and designs etc. The total declared assessable value was Rs. 10,26,600/- (Rupees Ten Lakh Twenty-Six Thousand Six Hundred only).

9.2 It was found that the importer had mis-declared the goods. Several items not declared in the Bill of Entry were found during the examination. In his statement dated 28.11.2024, Shri Anuj Amarbahadur Singh, Proprietor of M/s. ABS International, admitted that his overseas supplier had issued two invoices for the same consignment: one invoice contain 11 items with CIF value USD 11,601.59 and another invoice contain 17 items with CIF value USD 12,134.76, which was forwarded to Shri Krishna Nand Shahi. Even the second invoice did not correctly represent the actual goods imported in the said

consignment. Thus, the declared assessable value in the Bill of Entry is not a true representation of the actual value of the goods and is liable to be rejected.

9.3 It further appears that the overseas supplier prepared manipulated documents, including invoices and packing lists on the directions of Shri Anuj Amarbahadur Singh. Despite this, the actual invoice has not been submitted. It appears that the Chinese supplier, acting in collusion with Shri Anuj Amarbahadur Singh, prepared the invoice, packing list and manipulate value on his direction for the purpose of import. The valuation report of the government-approved Chartered Engineer further establishes that the prices declared for the goods (socks, electric balloon pumps, men's T-shirts, and men's track pants of various sizes, colours and designs) were significantly lower than their actual assessable value. It is therefore evident that the importer deliberately mis-declared and suppressed the value of the goods in order to evade Customs duty.

9.4 In view of the foregoing, the imported goods were found to be mis-declared in terms of description, value which forms the reason to doubt the truth and accuracy of the value declared in relation to any imported goods and as the transactional value is doubtful and same needs to be rejected in terms of Rule 12 of Customs Valuation (Determination of value of imported goods) Rules, 2007. As the value of the subject goods cannot be determined under the provisions sub-rule (1) of Rule 3 of the Customs Valuation Rules, 2007, the same is required to be determined by sequentially proceeding in terms of Rule 4 to Rule 9 of the Customs Valuation (Determination of value of imported goods) Rules, 2007.

Rule 3 of Customs Valuation (Determination of value of imported goods) Rules, 2007:

Determination of the method of valuation

(1) *Subject to rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of rule 10;*

(2) *Value of imported goods under sub-rule (1) shall be accepted:*

Provided that -

(a) there are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which -

(i) are imposed or required by law or by the public authorities in India; or

(ii) limit the geographical area in which the goods may be resold; or

(i) do not substantially affect the value of the goods;

(b) the sale or price is not subject to some condition or consideration for which a value cannot be determined in respect of the goods being valued;

(c) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of rule 10 of these rules; and

(d) the buyer and seller are not related, or where the buyer and seller are related, that transaction value is acceptable for customs purposes under the provisions of sub-rule (3) below.

(3) (a) Where the buyer and seller are related, the transaction value shall be accepted provided that the examination of the circumstances of the sale of the imported goods indicate that the relationship did not influence the price.

(b) In a sale between related persons, the transaction value shall be accepted, whenever the importer demonstrates that the declared value of the goods being valued, closely approximates to one of the following values ascertained at or about the same time.

(i) the transaction value of identical goods, or of similar goods, in sales to unrelated buyers in India;

(ii) the deductive value for identical goods or similar goods;

(iii) the computed value for identical goods or similar goods:

Provided that in applying the values used for comparison, due account shall be taken of demonstrated difference in commercial levels, quantity levels, adjustments in accordance with the provisions of rule 10 and cost incurred by the seller in sales in which he and the buyer are not related;

(c) substitute values shall not be established under the provisions of clause (b) of this sub-rule.

(4) if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through rule 4 to 9.

Rule 4. Transaction value of identical goods. -

(1)(a) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued;

Provided that such transaction value shall not be the value of the goods provisionally assessed under section 18 of the Customs Act, 1962.

(b)

(c)

(2)

(3) In applying this rule, if more than one transaction value of identical goods is found, the lowest such value shall be used to determine the value of imported goods.

Rule 5 (Transaction value of similar goods).-

(1) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued:

Provided that such transaction value shall not be the value of the goods provisionally assessed under section 18 of the Customs Act, 1962

(2)

Further, as per Rule 6 of the CVR, 2007, if the value cannot be determined under Rule 3, 4 & 5, then the value shall be determined under Rule 7 of CVR, 2007.

Rule 7 (Deductive value) stipulates that:-

(1) Subject to the provisions of rule 3, if the goods being valued or identical or similar imported goods are sold in India, in the condition as imported at or about the time at which the declaration for determination of value is presented, the value of imported goods shall be based on the unit price at which the imported goods or

identical or similar imported goods are sold in the greatest aggregate quantity to persons who are not related to the sellers in India, subject to the following deductions :-

- (i) either the commission usually paid or agreed to be paid or the additions usually made for profits and general expenses in connection with sales in India of imported goods of the same class or kind;
- (ii) the usual costs of transport and insurance and associated costs incurred within India;
- (iii) the customs duties and other taxes payable in India by reason of importation or sale of the goods.

(2)

(3)

Rule 8 (Computed value) stipulates that:-

Subject to the provisions of rule 3, the value of imported goods shall be based on a computed value, which shall consist of the sum of:-

- (a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;
- (b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to India;
- (c) the cost or value of all other expenses under sub-rule (2) of rule 10.

Rule 9 (Residual method) stipulates that:-

(1) Subject to the provisions of rule 3, where the value of imported goods cannot be determined under the provisions of any of the preceding rules, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules and on the basis of data available in India;

Provided that the value so determined shall not exceed the price at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place of importation in the course of international trade, when the seller or buyer has no interest in the business of other and price is the sole consideration for the sale or offer for sale.

(2) No value shall be determined under the provisions of" this rule on the basis of -

- (i) the selling price in India of the goods produced in India;
- (ii) a system which provides for the acceptance for customs purposes of the highest of the two alternative values;
- (iii) the price of the goods on the domestic market of the country of exportation; (iv) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of rule 8;
- (v) the price of the goods for the export to a country other than India;
- (vi) minimum customs values; or
- (vii) arbitrary or fictitious values.

9.5 Efforts were made to ascertain the value of the subject goods by perusing the import data relating to contemporaneous import of identical or similar goods of same description, make, model, quantity and Country of Origin so as to determine the value of goods in terms of Rule 4 and 5 of

Customs Valuation Rules, 2007. However, the import data extracted with respect to contemporaneous imports was general in nature and the details of quantity, description, Country of Origin of identical or similar goods were not available as the goods were unbranded and are flexible in nature with reference to color, design, pattern, size, etc. Therefore, determination of correct value could not be done under Rule 4 and 5 of the Customs Valuation Rules, 2007.

9.6 As per Rule 6 ibid, if the value cannot be determined under Rules 3, 4 and 5 same shall be determined under the provisions of Rule 7 or when same cannot be determined under that rule then under Rule 8.

As the imported goods were found to be non-standard, the sale price of identical or similar goods was not available in the domestic market as the goods are miscellaneous in nature and found in different variety, description, specification, model, brand, make, sizes and quality, therefore, determination of transaction value under Rule 7 of CVR, 2007 was not possible.

As substantial data related to the cost or value of materials and fabrication or other processing employed in producing the imported goods required to compute the value under Rule 8 is also not available. Therefore, valuation of the impugned goods could not be ascertained under Rule 8 of CVR, 2007. Hence the value is to be determined in terms of Rule 9 of CVR, 2007 of said rules.

10. The Chartered Engineer in its report vide CE/MUN/DRI-012/2024-25 dated 12.12.2024 has been provided with total 67 items with different no. having total value of USD 37828.72 i.e Rs. 32,00,310/- (Rupees Thirty Two Lakhs Three Hundred and Ten). In contrast, the importer declared the assessable value of the goods as USD 12134.76 i.e Rs.10,26,600/- under invoice No.A120240831 dated 31.08.2024. The declared value cannot be considered as correct assessable value of the goods since mis-declaration has been established in respect of description, quantity, quality and other parameters. Accordingly, declared value is liable to be rejected under Rule 12 of Customs Valuation Rules 2007.

Therefore, the assessable value of the subject goods is required to be re-determined under Section 14 of the Customs Act, 1962, on the basis of the Customs empaneled Chartered Engineer's report as USD 37,828.72, equivalent to Rs. 32,00,310/- ($37,828.72 \times 84.6$) (Thirty-Two Lakhs Three Hundred and Ten only).

11. Liability of imported goods for confiscation:

11.1 Goods not declared/undeclared in the Bill of Entry:

The importer in the subject bill of entry declared 17 items. However, more than 17 items found during physical examination of the cargo. This significant discrepancy indicating a potential misdeclaration and possible violation of customs regulations. The investigation uncovered that the cargo covered under Bill of Lading (BL) No. KMTCNBO8196019, dated 31-8-2024 contained undeclared goods as detailed in Table-5 below:

Table-5

Goods Not Declared in the B.E. 5831437 dated 27.09.2024						
Sr. No.	Sr. No. of the Annexure B of	Goods appears to be	Details as per Annexure-B to panchnama dated 01.10.2024			
			No. of PP	No. of Pcs in 1	Total No. of	Total Pieces

	Panchnama dated 01.10.2024		Bags/cartons	Bag/cartons	PCs	
1	4	Socks Packing Polythene & Box	1	15.370 Kgs	15.370 Kgs	15.370 Kgs
2	5	Bra Packing Boxes	1	600	600	600
3	6	Bra Stickers	1	1000	1000	1000
4	15	Girl's Pazama	10	192	1920	3120
	16	Girl's Pazama	6	200	1200	
5	32	Men's Trouser	1	180	180	180
6	38	Nipple Cowen	1	100	100	300
	39	Nipple Cowen	1	200	200	
7	40	Silicon Bra with packing boxes	4	150	600	600
8	62	Woolen Pant	3	72	216	216
9	64	Yarn	1	14.760 Kgs	14.760 Kgs	14.760 Kgs
10	65	Women's Bra Long size	1	11	11	11
		Charging Socket		2	2	2
		Rubber Bushes		300	300	300

From the above, it is evident that the afore-mentioned goods were neither declared by the importer in the Bill of Lading nor were declared at the time of filing of the Bill of Entry to the Customs. Thus, appearing with the clear intentions of the importer to evade the applicable Custom Duty and hence these undeclared goods to be liable for confiscation under section 111(l) of the Customs Act, 1962.

11.2 Goods mis-declared in terms of Quantity:

During investigation, it was observed that the goods imported under the Bill of Entry No. 5831437 dated 27.09.2024 had discrepancies between the declared quantity in the Bill of Entry and the actual quantity of goods found during the examination proceedings. This significant discrepancy indicates potential mis-declaration in terms of the quantity of the goods declared and possible violations of the customs regulations. The discrepancies found in the quantity of the items of the subject cargo are detailed in the below Table-6.

Table-6

Sr. No.	Sr. No. of the Annexure B of Panchnama dated 01.10.2024	Goods appears to be	Details as per Annexure-B to panchnama dated 01.10.2024				Total pieces/quantity declared in Bill of Entry 5831437 dated 27.09.2024	Difference (7-8)
			No. of PP Bags/cartons	No. of Pcs in 1 Bag/cartons	Total No. of PCs	Total Pieces		
1	2	3	4	5	6	7	8	9
1	1	Ankle Socks	49	1200	58800	83400	99804	- 16404
	2	Ankle Socks	9	1000	9000			
	3	Knee Socks	13	1200	15600			
2	9	Electric Balloon Pumps	48	12	576	576	576	0

3	41	Physics Teaching Super Magnet	123	52	6396 (3034.4 1Kg)	6396 (3034. 41 Kg)	2767.5 Kg	266.9 1 Kg
4	37	Nail Glitter	7 Box containing Glitter Packets, 1 Brochure Diary and 1 electric nail spreader	200.4 Kgs.	200.4 Kgs.	200.4 Kgs	180.9 Kg	19.5 Kg
5	10	Electric Massage Stick	6	100	600	600	600	0
6	7	Dummy Hands	1	71	71	91	40	51
	8	Dummy Legs	2	10	20			
7	11	Electric Neck Fan (Air Cooler & Purifier)	10	60	600	600	600	0
8	59	Woolen Cap	1	1200	1200	4800	2400	2400
	60	Woolen Cap	6	600	3600			
9	63	Wallet	4	200	800	800	795	5
10	12	Girls Leggings	2	120	240	6300	4380	1920
	13	Girls Leggings	3	180	540			
	14	Girls Leggings	21	240	5040			
	61	Woolen Leggings	4	120	480			
11	44	Women's Bra	2	30	60	18346	8650	9696
	45	Women's Bra	7	120	840			
	46	Women's Bra	22	600	13200			
	47	Women's Bra	3	240	720			
	48	Women's Bra	1	180	180			
	49	Women's Bra	1	216	216			
	50	Women's Bra	1	50	50			
	51	Women's Bra	5	360	1800			
	52	Women's Free Size Padded Bra	2	360	720			
	53	Women's Padded Bra	1	300	300			
	54	Women's Padded Bra	1	80	80			
	55	Women's Padded Bra	1	180	180			
12	56	Women's Panty	2	1500	3000	5800	2799	3001
	57	Women's	1	200	200			

		Panty						
	58	Women's Panty	2	1300	2600			
13	17	Men's Full sleeve T-shirts	2	288	576	4136	1904	2232
	18	Men's Half sleeve T-shirts	9	240	2160			
	19	Men's Half sleeve T-shirts	1	330	330			
	20	Men's Half sleeve T-shirts	4	180	720			
	21	Men's Half sleeve T-shirts	1	350	350			
14	22	Men's Track Pants	9	80	720	4173	2101	2072
	23	Men's Track Pants	2	200	400			
	24	Men's Track Pants	4	100	400			
	25	Men's Track Pants	2	210	420			
	26	Men's Track Pants	1	240	240			
	27	Men's Track Pants	3	270	810			
	28	Men's Track Pants	1	325	325			
	29	Men's Track Pants	1	208	208			
	30	Men's Track Pants	1	300	300			
	31	Men's Track Pants	1	350	350			
15	42	Thermal Pant	1	30	30	210	105	105
	43	Thermal Vest	6	30	180			
16	33	Men's Underwear	11	1200	13200	18800	6600	12200
	35	Men's Underwear	5	1120	5600			
17	34	Men's Underwear	18	720	12960	15984	8000	7984
	36	Men's Underwear	2	1512	3024			

From the above, it is evident that in respect of most of the goods detailed in Table-6, the quantity found during examination exceeded the quantity declared by the importer in the Bill of Entry. Accordingly, the importer imported the goods in contravention of the provisions of the Customs Act, 1962, with intent to evade applicable Customs duty, rendering the goods liable to confiscation under Section 111(m) of the Customs Act, 1962.

11.3 Mis-classification of Goods:

During the course of investigation, it is revealed that the importer had misclassified certain goods in the Bill of Entry against their description with an incorrect CTH as detailed in the Table-7 below:

Table-7

Sr .N o.	Sr. No. of the Annexure B of Panchnama dated 01.10.2024	No. of PP Bags/cartons	Goods appears to be	CTH as per Bill of Entry	CTH as per investigation findings
1	2	3	4	5	6
1	1	49	Ankle Socks	61159500	61159600
	2	9	Ankle Socks		
	3	13	Knee Socks		
2	9	48	Electric Balloon Pumps	84142090	84142090
3	41	123	Physics Teaching Super Magnet MKDVR Super Magnet, Physics Teaching, Super Magnetic Force, 30 pairs in each packet, 3+ Ages	85051190	95030099
4	37	7 Box containg Glitter Packets, 1 Brochure Diary and 1 electric nail spreader	Nail Glitter	39269099	33049990
5	11	10	Electric Neck Fan (Air Cooler & Purifier)	84149090	84145990
6	59	1	Woolen Cap	65050090	61169100
	60	6	Woolen Cap		
7	63	4	Wallet	62121000	42021990
8	12	2	Girls Leggings	61159600	61152990
	13	3	Girls Leggings		
	14	21	Girls Leggings		
	61	4	Woolen Leggings		

During the investigation, it is revealed that the above 8 items out of 17 items covered under the B/E no. 5831437 dated 27.09.2024 filed by the importer are with incorrect CTH against their description. As all the above 8 items are incorrectly classified by the importer with an intention to evade the applicable customs duty, hence these goods are liable to be confiscated under section 111 (m) of the Customs Act, 1962.

11.4 Non-compliance of BIS:

Further, during the investigation, it is also revealed that for the item mentioned at serial no. 3 of Table-7 above, with the description as "Physics Teaching Super Magnet MKDVR Super Magnet, Physics Teaching, Super Magnetic Force, 30 pairs in each packet, **3+ Ages**", having CTH in BE as "85051190", the correct CTH for the said item is 95030099 and the **DGFT vide its notification 20/2015-20 dated 07.07.2022** has made the import of the Items of the CTH 95030099 "free", subject to mandatory BIS certification for the said item. As the importer has failed to furnish BIS certificate in respect of the subject goods and intentionally mis-classified the same with the intent to clear non-BIS compliant goods illegally, hence the said goods are rendered

liable to be confiscated under section 111 (d) and 111(m) of the Customs Act, 1962.

11.5 In view of facts of investigation narrated in foregoing paras, it appears that Shri Anuj Amarbahadur Singh Proprietor of M/s ABS International had imported the high-quality goods i.e Socks (Ankle Socks, Knee Socks etc.), Electric balloon Pumps, Men's T Shirt (Full sleeve T-shirts, half Sleeve T-shirts), Men's Track pants etc. of different size, colour design by mis declaring their description, quantity and value. It was very well planned to import the goods having high quality with excess quantity and misclassifying the same along with some undeclared goods; which were unearthed during the examination of the said import consignment. The importer also attempted to import goods i.e. "Physics Teaching Super Magnet" without having BIS certification.

11.6 Shri Anuj Amarbahadur Singh proprietor of M/s ABS International, in his statement dated 04.10.2024/11.04.2024/28.11.2024 clearly stated that his overseas supplier sent him two types of Invoices for the same consignment of import goods, one invoice with 11 items and having total CIF value as 11601.59 USD and another invoice with 17 items and having total CIF value as 12134.76 USD. Moreover, the quantity, unit and unit price of the item-wise import goods is different in both the invoices. Further, during the examination of the cargo, the said cargo was found to be mis-declared in terms of quantity, thus it appears that the declared value of the Cargo was lesser in comparison to the actual quality and quantity of goods. Also, no payment proof for purchase of said consignment could be provided by the importer. Therefore, the valuation done by government approved Chartered Engineer established that the actual assessable value of the goods is Rs. 32,00,310/- in place of declared assessable value of Rs. 10,26,600/-. Hence it appears that the importer has mis-declared the import goods in terms of value also in order to evade applicable customs duty and hence the subject goods are also liable to be confiscated under section 111 (m) of the Customs Act, 1962.

12. Role and culpability on the importer/person/firm involved:-

12.1 Role of M/s ABS International (Shri Anuj Amarbahadur Singh, Proprietor of M/s ABS International):-

M/s. ABS International is a proprietorship firm under the proprietorship of Shri Anuj Amarbahadur Singh. The importer firm was found indulged into evasion of Customs duty on import of different type of goods by way of gross undervaluation, misdeclaration and undeclaration. They used to import goods from China. It was noticed that Anuj Amarbahadur Singh was handling the import related work of the said firm. It was revealed during investigation that Shri Anuj Amarbahadur Singh used to contact with Chinese supplier in order to finalize the deal with the suppliers of the goods. He used to bargain with foreign suppliers and used to arrange the payment against the subject import goods to the Chinese suppliers with draft and final invoices. Shri Anuj Amarbahadur Singh contacted the Customs Broker M/s. Senghi Shipping Services, for arranging the clearance from Mundra Port.

Shri Anuj Amarbahadur Singh was looking after all the work related to M/s ABS International and it appears that he was responsible for the business activities and import related activities of the said firm. Shri Anuj Amarbahadur Singh admittedly made conversations with Chinese supplier and they send various types of invoice, packing list, etc. which is evident from the parallel

invoice bearing same no. AI20240831 dated 31.08.2024 having 11 items in total with the total CIF value as 11601.59 USD for the subject import cargo, obtained from the mobile phone of Shri Krishna Nand Shahi along with the chat conversations between the two. It appears that Chinese Supplier prepared Invoices, packing list and other documents related to import consignment on the direction of Shri Anuj Amarbahadur Singh and he has been instructing to Chinese supplier for preparing the import documents in terms of value, quantity, CTH according to his own wish. It is evident that the actual assessable value of the subject goods is higher than as declared by Shri Anuj Amarbahadur Singh before Customs authorities. It appears that Chinese Supplier adjusted the cost of goods at the request of Shri Anuj Amarbahadur Singh, wherein the value was deliberately undervalued in comparison to the actual quality and nature of the imported goods. Therefore, it appears that the declared assessable value of the import goods does not represent true transaction value of the goods. No payment proof for purchase of said consignment could be provided by the importer. It appears that M/s ABS International involved in gross undervaluation, mis-classification and undeclaration of the goods, so that maximum profit can be earned by M/s ABS International through paying less customs duty, by declaring a lower value for the goods, with intent to potentially lower their import duty and tax liabilities.

By such act of omission and commission M/s ABS International (Shri Anuj Amarbahadur Singh, Proprietor of M/s ABS International) rendered the subject import consignment covered under Bill of Entry No. 5831437 dated 27.09.2024 having declared value of goods as Rs. 10,26,600/-, however having appropriate assessable value of Rs. 32,00,310/-, liable to confiscation under **111(l) and 111(m) of the Customs Act, 1962.**

From the above, it appears that M/s ABS International (Shri Anuj Amarbahadur Singh, Proprietor of M/s ABS International) has done an act rendering the subject goods liable for confiscation and has knowingly concerned himself in removing, depositing, harbouring, keeping, concealing, selling and dealing with mis-declared goods being imported by them. Therefore, his act resulted into contravention of the provisions of Customs Act, 1962 and rules made there under and thus, M/s ABS International (Shri Anuj Amarbahadur Singh, Proprietor of M/s ABS International) rendered itself liable to penalty under **Section 112(a) and 112 (b) of Customs Act 1962.**

M/s ABS International (Shri Anuj Amarbahadur Singh, Proprietor of M/s ABS International) had knowingly and intentionally made/signed/used the import document (Invoice, packing list etc.) and caused to make and use the documents such as Bill of Lading, Invoice and other related documents, which were false or incorrect in material particulars for the purposes of avoiding huge differential amount of Customs Duty, therefore M/s ABS International (Shri Anuj Amarbahadur Singh, Proprietor of M/s ABS International) is also liable to penalty under **Section 114AA of the Customs Act, 1962.**

12.2 Role of M/s. Senghi Shipping Services, Custom House Agent.

M/s Senghi Shipping Services is fully aware of the Customs Act, 1962, and CBLR 2018. Moreover, they have been providing Customs Clearing Agent services to their customers for a considerable period. Therefore, it is the responsibility and duty of M/s Senghi Shipping Services to guide the importer regarding the correct declaration of the assessable value and CTH of the imported cargo. If the DRI had not initiated an investigation against M/s ABS

International, they would have potentially evaded a significant amount of Customs Duty by paying wrong duty based on the declared value.

In his statement of Shri Himanshu Kumar Singh, G-card Holder (CBLMS No. 2015CNAI10509) of M/s. Senghi Shipping Services acknowledges the description based on the documents provided by the importer. He further asserts that he did not seek clarification from the importer regarding the disparities in the descriptions, CTH, Valuation. This admission points to a critical lapse in due diligence on the part of the CHA.

As a Customs House Agent, the responsibility extends beyond merely processing the provided documents; it includes ensuring the accuracy and consistency of the information presented. Failing to seek clarification on discrepancies in product descriptions, especially valuation and correct CTH, undermines the agent's role in maintaining the integrity of customs declarations.

By such act of omission and commission M/s. Senghi Shipping Services rendered the subject import consignment covered under Bill of Entry No. 5831437 dated 27.09.2024 having declared value of goods as Rs. 10,26,600/-, however having appropriate assessable value of Rs. 32,00,310/-, liable to confiscation under **Sections 111(d), 111(l) and 111(m)** of the Customs Act, 1962 and also rendered themselves liable to penalty under **Section 112 (a)** and **112 (b)** of the Customs Act, 1962.

13.1 Accordingly, show cause notice bearing F.No. GEN/ADJ/ADC/527/2025-Adjn-O/o Pr. Commr-Cus-Mundra dated 27.02.2025 was issued to **M/s ABS International (IEC No. DROPS3537Q)** (Shri Anuj Amarbahadur Singh, Proprietor of M/s ABS International) wherein they had been called upon to show cause to the Additional Commissioner of Customs, Customs House, Mundra, as to why:

- i. The declared assessable value of **Rs. 10,26,600/-**, of the subject goods covered under B/E No. 5831437 dated 27.09.2024, should not be rejected under Rule 12 of the Customs Valuation (Determination of value of imported goods) Rules, 2007 and the same be re-determined as **Rs. 32,00,310/-**, under Rule 9 Customs Valuation (Determination of value of imported goods) Rules, 2007.
- ii. Total Quantity of 31 cartons of different type of goods which are undeclared by the importer and found during the examination conducted by the DRI as per **Table-5** above should not be held liable for confiscation under sections 111 (f) and 111 (l) of the Customs Act, 1962.
- iii. Total Quantity of 446 cartons of different type of goods as per **Table-6 above**, which are found to be mis-declared in terms of quantity and value as found during the examination proceedings conducted by the DRI and covered under the B/E No. 5831437 dated 27.09.2024 should not be held liable for confiscation under sections 111 (l) and 111 (m) of the Customs Act, 1962.
- iv. Total Quantity of 177 cartons of different type of goods as per **Table-7 above** (Except Sl No. 3), which are found to be mis-classified in terms of CTH and value covered under the B/E No. 5831437 dated 27.09.2024 should not be held liable for confiscation under section 111 (m) of the Customs Act, 1962.

- v. Total Quantity of 123 cartons of "Physics Teaching Super Magnet, MKDVR Super Magnet, Physics Teaching, Super Magnetic Force, 30 pairs in each packet, **3+ Ages**", mentioned at Sl No. 3 of **Table-7**, imported without mandatory BIS certification, and mis-classified in terms of CTH and value in the said Bill of Entry, should not be held liable to confiscation under Section 111(d) and 111(m) of the Customs Act, 1962.
- vi. Penalty under Section 112(a), 112(b) and 114 AA of the Customs Act, 1962 should not be imposed on M/s ABS International, for the reasons mentioned above.

13.2 Further, vide show cause notice dated 27.02.2025, M/s. Senghi Shipping Services was called upon to show cause to the Additional Commissioner of Customs, Customs House, Mundra, as to why:-

- (i) Penalty under Section 112(a) and 112(b) of the Customs Act, 1962 should not be imposed.

WRITTEN SUBMISSION

14. M/s. ABS International has submitted reply to Show Cause Notice dated 27.02.2024 vide their letter dated 08.04.2025 wherein he has submitted:-

14.1 Regarding valuation, the noticee submits that the rejection of value as well as the worked out value are invalid because of following reasons:

- a. Before proceeding for redetermination of declared value under rule 4 to 10 of Customs Valuation (Determination of Value of Imported Goods) Rules (CVR), 2007 the proper officer, shall intimate the importer in writing the grounds for doubting the truth or accuracy of the value declared in relation to goods imported by such importer and provide a reasonable opportunity of being heard, no such exercise has been done by the department in the present case while rejecting the transactional value and therefore such rejection is void. Importer relied upon case of - 2019 (367) E.L.T. 3 (S.C.) CENTURY METAL RECYCLING PVT. LTD. Versus UNION OF INDIA, the Hon'ble Supreme Court.
- b. The value has been redetermined in accordance with Rule 9 of the CVR 2007, rather than Rules 4, 5, 7, or 8. The detailed particulars of the seized goods are enumerated in Table 3 of the aforementioned Show Cause Notice, ostensibly as documented in the Panchnama dated October 1, 2024. However, the inventory conspicuously fails to identify any discernible brand for the majority of items (excluding serial numbers nine and eleven). Critically, the remarks column within the said table offers no information whatsoever regarding the essential attributes of specification, model, brand, and make, thereby demonstrating a patent deficiency in the foundational documentation, most notably in its conspicuous failure to articulate any reasoned basis for not employing the valuation methodologies prescribed under Rule 6 or Rule 7 of CVR 2007.

Furthermore, the Show Cause Notice conspicuously fails to proffer any cogent or legally sustainable rationale as to why the valuation could not be appropriately redetermined under the explicit provisions of Rule 8 of the Customs Valuation. This conspicuous omission raises serious questions regarding the judicious application of the valuation rules.

- c. The redetermination of value cannot be done solely on the basis of chartered engineer's certificate. The goods were subjected to the opinion

of chartered engineer, the Chartered Engineer Tushar Zankat B.E (Mech) AMIE has done the valuation of the goods. The noticee fails to understand that how a mechanical engineer is having expertise in garment valuation. The inspection was only visual and no test was carried out to verify the contents of the goods. It is a settled law that a chartered engineer cannot value the apparels. This is squarely covered by Decision of Principal Bench of Tribunal in case of Commissioner of Customs New Delhi Vs Pashupati Industrial Inc reported in 2017(358) ELT 840 (TriDelhi), the Hon'ble Tribunal. A Chartered Engineer is not competent to value the present goods. The entire revaluation process being predicated exclusively on the chartered engineer's certificate, which lacks legal foundation, is inherently null and void.

14.2 Regarding quantity of the Goods, the Noticee unequivocally submitted in their statement recorded under the provisions Section 108 of the Customs Act, 1962 that their trade in the subject goods is conducted on a weight basis. While the examination revealed a surplus in certain goods, it is an equally established fact that other goods were found to be in deficit compared to the declared quantities in the Bill of Entry. Consequently, the discrepancy in quantity constitutes a bona fide error on the part of the Noticee.

14.3 Regarding, classification of the Goods, there is no proposal in the charging Para of The SCN for any Re classification. Paragraph 12.3 of the Notice addresses the alleged misclassification of goods in terms of the CTH. (may be read as CTI) and Table 7 within the said paragraph enumerates eight distinct items that the department has reclassified, differing from the classification declared by the Noticee in the Bill of Entry. Notably, and with significant legal implication, no justification is provided within the Notice for this unilateral reclassification. Any reclassification which is contrary to the classification made by the importer has to be proved by department themselves. Once they fail to do so the Show Cause Notice and the is invalid qua the reclassification. In a similar case WOCKHARDT LTD. Versus COMMR. OF C. EX., CUS. & S.T., AURANGABAD as reported in 2019 (370) E.L.T. 687 (Tri. - Mumbai) relating to reclassification, where department proposed and confirmed reclassifying the declared classification of the goods i.e blood traction from CTH 300200 to CTH 293700, the Hon'ble Tribunal set aside the reclassification because the department failed to prove such reclassification. The notice also relies upon the case of SHIVANI SCIENTIFIC INDUSTRIES (P) LTD. Versus C.C. (IMPORT) ACC, MUMBAI as reported in 2019 (365) E.L.T. 824 (Tri. - Mumbai), the Hon'ble tribunal.

14.4 Regarding classification of Magnet, the notice submits that the Magnet imported are not Toys/Puzzle and not classifiable under CTH 9503. The SCN says that Physics Teaching Super Magnet MKDVR Super Magnet, Physics Teaching, Super Magnetic Force, 30 pairs in each packet, 3+ Ages", will fall under CTH(CTI) ", 95030099 and not under 85051190. No reasoning is provided as to how the Physics Teaching Super Magnet MKDVR would fall under CTI 95030099.

The explanatory notes to CTH 8505 read as:

(2) Permanent magnets and articles intended to become permanent magnets after magnetisation.

Permanent magnets consist of pieces of hard steel, special alloys or other materials (e.g., bariumferrite agglomerated with plastics or

synthetic rubber) which have been rendered permanently magnetic. Their shape varies according to the use for which they are designed. To reduce the tendency to demagnetise, horseshoe shaped magnets are often furnished with a bar of iron (the keeper) adhering to the two poles. Permanent magnets remain classified here whatever their use, including small magnets used, inter alia, as toys.

Thus, it is unequivocally clear that the Noticee correctly classified their Goods under Customs Tariff Heading (CTH) 8503. The Department has failed to provide any reasoning or justification for the purported reclassification of the imported magnets under Customs Tariff Item (CTI) 95030099. In the absence of any such supporting rationale, the reclassification undertaken by the Department is deemed invalid.

14.5 The Appellant contests the confiscation of the imported goods under several sections of the Customs Act, 1962, based on the following contentions:

- (i) Regarding Section 111(f), the Appellant submits that the Bill of Lading contained a broad description of the items and it was not feasible to accommodate every single item within the limited space of the document. Therefore, the omission of specific details in the Bill of Lading should not lead to confiscation under this section.
- (ii) Concerning Section 111(m) the Appellant contends that there has been no misclassification or misdeclaration of the value of the goods. This, they assert, has been elaborately explained in the preceding paragraphs of their submission. Consequently, the question of the goods being liable for confiscation under this section does not arise. The Appellant further argues that even if, hypothetically and without accepting, there were a reclassification of the goods, such reclassification alone would not render them liable for confiscation under Section 111(m).

(iii) Finally, with respect to Section 111(d) the Appellant submits that the magnets they imported cannot be correctly classified under Customs Tariff Heading (CTH) 9503. Therefore, any confiscation based on this alleged misclassification under Section 111(d) is invalid.

14.6 Penalty under 112 of Customs Act not impose-able on importer. The Noticee contends that they acted without any malafide intention in the importation of the goods detailed in the aforementioned Bill of Entry. The unfounded allegation levelled against the Importer, insinuating collusion with their supplier, is demonstrably devoid of any evidentiary basis. The Department has conspicuously failed to adduce even a scintilla of credible evidence to substantiate this grave accusation. The SCN untenably seeks to rely upon purported mobile chat conversations. Astonishingly, these alleged digital exchanges are neither reproduced within the body of the SCN nor are they formally recognized as relied upon documents, as no transcript or copy of said chat conversations is enclosed within the compendium of Relied Upon Documents accompanying the SCN. In the instant matter, the Department, as the asserting party, has utterly failed to discharge this fundamental burden concerning the alleged collusion.

Furthermore, the failure to provide the purported chat conversations as relied upon documents constitutes a clear violation of the principles of natural justice, specifically the right to a fair hearing and the right to know the case one has to meet. The maxim "**audi alteram partem**" mandates that a party

against whom allegations are made must be provided with all the evidence intended to be used against them, affording them a fair opportunity to examine, challenge, and rebut said evidence. By withholding these crucial alleged conversations, the Department has effectively deprived the Importer of this fundamental right, rendering the allegation inherently unsustainable and legally infirm. The mere allusion to the existence of such conversations, without their tangible presentation and formal inclusion as relied upon documents, amounts to nothing more than unsubstantiated conjecture and speculative assertion. Such an approach falls far short of the requisite legal standard of proof. Allegations of such serious nature, particularly those imputing malfeasance and collusion, demand concrete and demonstrable evidence, not vague references to undisclosed digital communications. In light of the Department's abject failure to provide any tangible evidence of the alleged collusion, and the clear violation of the principles of natural justice in failing to disclose the purported foundational chat conversations, the allegation of collusion against the Importer stands as a baseless and legally untenable assertion, warranting its unequivocal dismissal. The Importer cannot be held liable based on unsubstantiated claims and undisclosed evidence.

14.7 Penalty cannot be imposed on Noticee under section 114AA of the Customs Act 1972. In the present case there was neither any knowledge nor there was an intention regarding submission of any incorrect document. The Noticee never placed/signed any false document or any incorrect document. The Noticee submits that they have not submitted any false or incorrect information at all. The ingredients of section 114AA are more inclined towards forgery and fraud which is not even alleged in the Show Cause Notice. From this it is abundantly clear that the purpose for which section 114AA was introduced is to curb the serious offences due to forgery. The present case is completely different and thus does not even fall under the ambit of 114AA of the Customs Act 1962. The noticee relies on the decision of Hon'ble CESTAT in SURESH KUMAR AGARWAL VS COMMISSIONER OF CUSTOMS III as reported in 2024(6) TMI 779.

14.8 The entirety of the Department's valuation hinges upon the assessment conducted by a chartered engineer holding a qualification of Bachelor of Engineering in Mechanical discipline. To rigorously verify the authenticity and technical soundness of this valuation, the Noticee respectfully requests the opportunity to subject the aforementioned chartered engineer to thorough cross-examination.

14.9 M/s. Senghi Shipping Services (Custom house agent) has submitted reply to Show Cause Notice dated 27.02.2024 vide their letter dated 21.05.2025 wherein he has submitted they filed the bill of entry based on commercial invoice (AI20240831 dated 31.08.2024) and packing list. They stated that they were not aware of any undervaluation or undeclared goods as alleged in the Show Cause Notice. They further submitted that their primary responsibility is to process the documents provided by the client and they were not responsible for any mis-declaration of goods. They requested that no penalty be imposed under Sections 112(a) and 112(b) of the Customs Act, 1962, and that lenient action be taken in the matter.

PERSONAL HEARING

15. “Audi alteram partem” is an essential principle of natural justice that dictates to hear the other side before passing any order. Therefore, opportunities to be heard in person were granted to the noticees on 05.05.2025 and 29.05.2025. Shri Anuj Amar Bahadur Singh, Proprietor, M/s. ABS International appeared for hearing on 05.05.2025 & 29.05.2025. During the hearing, he reiterated his written submission dated 08.04.2025 and stated that he has filed bill of entry as per documents supplied by the seller. He further stated that he does not agree with the classification of goods decided by DRI, Gnadhidham.

Shri Himashu Singh, G-pass holder, M/s. Senghi Shipping Services appeared for personal hearing on 29.05.2025. He reiterated his written submission dated 21.05.2025 and stated that he has filed bill of entry as per documents supplied by the importer. He requested to take lenient view in this matter.

CROSS-EXAMINATION

16. Noticee (M/s. ABS International) had requested for cross-examination of chartered engineer in his written submission dated 04.04.2025, which was allowed.

Shri Rajukumar Maji, Advocate on behalf of Noticee (M/s. ABS International) conducted cross examination of Shri Tushar Zenkat, chartered engineer on 19.08.2025. Record of the same is reproduced below:

Q.1 What is your educational qualification?

Ans. I am B.E. mechanical engineer.

Q.2 Do you have any expertise in valuation of textile goods such as readymade garments and made ups?

Ans. I am a machinal engineer and do not have any expertise in valuation of garments of textile goods.

Q.3 If you do not have any expertise, how can you have given certificate for valuation for bill of entry number 5831437 dated 27/09/2024?

Ans. I was called upon by the Directorate of Revenue Intelligence (DRI) to provide a report on the valuation of the goods related to bill of entry number 5831437. My valuation is a hypothesis based on my self-analysis.

DISCUSSION AND FINDINGS

17. I have carefully gone through the SCN, records of the case, submissions of the noticees and records of personal hearing held before me. With respect to the subject consignment, the following issues arise for determination in this adjudication:

- (i) Whether the declared value of the imported goods is liable for rejection under Rule 12 of the CVR 2007 and the same can be re-determined under Rule 9 of CVR 2007?
- (ii) Whether the imported goods are liable for confiscation under section 111(l) and 111(m) of the Customs Act, 1962?
- (iii) Whether imported goods i.e. Physics teaching super magnet 3+ages are liable for confiscation under section 111(d) and 111(m) of the Customs Act, 1962?
- (iv) Whether the noticees are liable for penal action?

18. Whether the declared value of the imported goods is liable for rejection under Rule 12 of the CVR 2007 and the same can be re-determined under Rule 9 of CVR 2007?

18.1 Rule 12 of CVR 2007 are reproduced below for reference:

Rule 12 - Rejection of declared value

(1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the provisions of sub-rule (1) of rule 3.

18.2 I find that M/s. ABS International imported a consignment under bill of entry no. 5831437 dated 27.09.2024 at Mundra Port which was examined by officers of DRI under Panchnama dated 01.10.2024. During the course of examination, 477 cartoons found in container no. BMOU6373410 containing assorted goods such as socks (ankle socks, knee socks, etc.), electric balloon pumps, men's T-shirts (full and half sleeves), and men's track pants of different sizes, colours and designs etc. The total declared assessable value was Rs. 10,26,600/- (Rupees Ten Lakh Twenty-Six Thousand Six Hundred only).

18.3 I find that several items not declared in the Bill of Entry were found during the examination. In statement dated 28.11.2024, Shri Anuj Amarbahadur Singh, Proprietor of M/s. ABS International, admitted that his overseas supplier had issued two invoices for the same consignment: one invoice contain 11 items with CIF value USD 11,601.59 and another invoice contain 17 items with CIF value USD 12,134.76. Even the second invoice did not correctly represent the actual goods imported in the said consignment. I observe that the overseas supplier prepared manipulated documents, including invoices and packing lists on the directions of Shri Anuj Amarbahadur Singh. Despite this, the actual invoice has not been submitted. I find that the Chinese supplier, acting in collusion with Shri Anuj Amarbahadur Singh, prepared the invoice, packing list and manipulate value on his direction for the purpose of import.

18.4 I find that the import data extracted with respect to contemporaneous imports was general in nature and the details of quantity, description, Country of Origin of identical or similar goods were not available as the goods were unbranded and are flexible in nature with reference to color, design, pattern, size, etc. Therefore, determination of correct value could not be done under Rule 4 and 5 of the Customs Valuation Rules, 2007.

As per Rule 6 ibid, if the value cannot be determined under Rules 3, 4 and 5 same shall be determined under the provisions of Rule 7 or when same cannot be determined under that rule then under Rule 8.

As the imported goods were found to be non-standard, the sale price of identical or similar goods was not available in the domestic market as the goods are miscellaneous in nature and found in different variety, description, specification, model, brand, make, sizes and quality, therefore, determination of transaction value under Rule 7 of CVR, 2007 was not possible.

As substantial data related to the cost or value of materials and fabrication or other processing employed in producing the imported goods required to compute the value under Rule 8 is also not available. Therefore, valuation of the impugned goods could not be ascertained under Rule 8 of CVR, 2007. Hence, the value is to be determined in terms of Rule 9 of CVR, 2007 of said rules.

18.5 The Chartered Engineer in its report vide CE/MUN/DRI-012/2024-25 dated 12.12.2024 has been provided with total 67 items with different no. having total value of USD 37828.72 i.e Rs. 32,00,310/- (Rupees Thirty Two Lakhs Three hundred and Ten only). In contrast, the importer declared the assessable value of the goods as USD 12134.76 i.e Rs.10,26,600/- under invoice No.A120240831 dated 31.08.2024. The declared value cannot be considered as correct assessable value of the goods since mis-declaration has been established in respect of description, quantity, quality and other parameters. Accordingly, declared value is liable to be rejected under Rule 12 of Customs Valuation Rules 2007.

I find that the assessable value of the subject goods is required to be re-determined under Section 14 of the Customs Act, 1962, on the basis of the Customs empaneled Chartered Engineer's report as USD 37,828.72, equivalent to Rs. 32,00,310/- ($37,828.72 \times 84.6$) (Thirty-Two Lakhs Three hundred and ten only).

18.6 Therefore, I conclude that Show Cause Notice has rightly proposed re-determination of assessable value under the provision of rule 9 of CVR, 2007.

18.7. I find that the noticee contended that the goods were subjected to the opinion of chartered engineer, and the Chartered Engineer Tushar Zankat B.E (Mech) AMIE has done the valuation of the goods, who holds B.E in mechanical engineer. I find that a Chartered Engineer's report holds weight in cases where there are significant discrepancies are found in importer's declared details. The customs officer is empowered to seek opinion of expert when there are doubts about the declared transaction value, as mandated in the Customs Valuation Rules.

18.7.1. In the instant case, I find that the importer firm was found indulged into evasion of Customs duty on import of different type of goods by way of gross undervaluation, misdeclaration and undeclaration. Considering the request of the importer the cross examination of Shri Tushar Zenkat, chartered engineer was carried out on 19.08.2025 by Shri Rajukumar Maji, Advocate on behalf of Noticee (M/s. ABS International). However, during the course of cross examination, Shri Rajukumar Maji, Advocate did not inquire about the methodology adopted by the Chartered Engineer, instead he raised question about the expertise of Chartered Engineer, which suggest that the importer with malafide intention tried to take advantage of their illegal and wrongful act which has resulted into loss of revenue to the exchequer.

18.7.2. I find that Shri Anuj Amarbahadur Singh admitted during his statements dated 04.10.2024, 11.04.2024, and 28.11.2024 recorded under Section 108 of the Customs Act, 1962, that he subsequently received another invoice bearing the same number and date from the overseas supplier containing 17 items for the same consignment. Thus, it is evident that Shri Anuj Amarbahadur Singh was arranging preparation of invoices and packing lists as per his own choice through the Chinese suppliers.

18.7.3. In view of the facts of the instant case, I referred to the legal maxim "*Nullus Commodum Capere Potest De Injuria Sua Propria*", which dictates that none can benefit from his own wrongdoing. It is a fundamental principle in law that prevents a person from taking advantage from their own mistakes or illegal acts. I find that the importer failed to submit any substantial evidence in support of their claim while questioning the said report, and mere questioning the due process of law would not be help them to colour their wrongdoings as valid. **Therefore, I hold that contention of importer is not sustainable.**

19. Whether the imported goods are liable for confiscation under section 111(l) and 111(m) of the Customs Act, 1962?

19.1 I find that 17 items were declared in the subject bill of entry whereas more than 17 items were found during the examination of goods. Total 31 cartoons of the undeclared items as mentioned in Table-5 hereinabove were neither declared by the importer in the Bill of lading nor were declared in the Bill of entry. Thus, the goods are to be liable for confiscation under Section 111(l) of the Customs Act, 1962.

19.2 I find that there are discrepancies between the quantity declared in the Bill of Entry and the actual quantity of goods found during the examination proceedings. This significant variation indicates a potential mis-declaration in terms of the quantity of goods declared. The details of these discrepancies are provided in Table-6 hrereinabove. It is evident that the quantity of most of goods found exceeds the quantity declared in the Bill of Entry.

19.3 I find that importer had mis-classified the goods in the bill of entry against their description with incorrect CTH as detail in the Table 7 hrereinabove. During the investigation, it is revealed that the above 8 items out of 17 items covered under the B/E No. 5831437 dated 27.09.2024 filed by the importer are with incorrect CTH against their description. As all the above 8 items are incorrectly classified by the importer with an intention to evade the applicable customs duty, hence these goods are liable to be confiscated under section 111 (m) of the Customs Act, 1962.

19.4 I also find that it is a fact that consequent upon amendment to the Section 17 of the Customs Act, 1962 vide Finance Act, 2011; 'Self-Assessment' has been introduced in Customs. Section 17 of the Customs Act, effective from 08.04.2011, provides for self-assessment of duty on imported goods by the importer himself by filing a Bill of Entry, in the electronic form. Provisions of the Section 46 of the Customs Act, 1962 makes it mandatory for the importer to make proper & correct entry for the imported goods by presenting a Bill of Entry electronically to the proper officer. As per Regulation 4 of the Bill of Entry (Electronic Declaration) Regulation, 2011 (issued under Section 157 read with Section 46 of the Customs Act, 1962) the Bill of Entry shall be deemed to have been filed and after self-assessment of duty completed when, after entry of the electronic declaration (which is defined as particulars relating to the imported goods that are entered in the Indian Customs Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service centre, a Bill of Entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under self-assessment, it is the importer who has to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the Bill of

Entry. Thus, with the introduction of self-assessment by amendments to Section 17, since 8th April, 2011, it is the added and enhanced responsibility of the importer to declare the correct description, value, quantity, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods.

19.5 From the above, I find that the Noticee has violated Sub-Section (4) and 4(A) of Section 46 of the Customs Act as they have mis-classified the goods and evaded the payment of applicable duty. I find that the Noticee was required to comply with Section 46 which mandates that the importer filing the Bill of Entry must make true and correct declarations and ensure the following:

- (i) Accuracy and completeness of the information declared;
- (ii) The authenticity and validity of any document supporting the information provided; and
- (iii) Comply with restrictions or prohibitions relating to the goods under this Act or any law in force at the time being

Section 46 of the Customs Act, 1962:

(1) *The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting [electronically] [on the customs automated system] to the proper officer a bill of entry for home consumption or warehousing [in such form and manner as may be prescribed]*

Provided that the Principal Commissioner of Customs or Commissioner of Customs] may, in cases where it is not feasible to make entry by presenting electronically [on the customs automated system allow an entry to be presented in any other manner:

Provided further that, if the importer makes and subscribes to a declaration before the proper officer, to the effect that he is unable for want of full information to furnish all the particulars of the goods required under this sub-section, the proper officer may, pending the production of such information, permit him, previous to the entry thereof (a) to examine the goods in the presence of an officer of customs, or (b) to deposit the goods in a public warehouse appointed under section 57 without warehousing the same.

...

(4) The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed

(4A) The importer who presents a bill of entry shall ensure the following, namely:—

- (a) the accuracy and completeness of the information given therein;*
- (b) the authenticity and validity of any document supporting it; and*
- (c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.*

19.6 I arrive to the conclusion that the Noticee cannot escape their liability towards misclassification of the imported goods. These acts of omission and commission on the part of the importer rendered the goods liable for

confiscation under the provisions of Section 111 (m) of the Customs Act, 1962. I find that Section 46 (4A) mandates the Noticee to make correct declarations at the time of filing of bills of entry.

19.7. I find that statements of Shri Anuj Amarbahadur Singh proprietor of M/s ABS International, were recorded under the provisions Section 108 of the Customs Act, 1962, on 04.10.2024, 11.04.2024, and 28.11.2024, whereby it has been revealed that his overseas supplier sent him two types of Invoices for the same consignment of import goods, one invoice with 11 items and having total CIF value as 11601.59 USD and another invoice with 17 items and having total CIF value as 12134.76 USD. Moreover, the quantity, unit and unit price of the item-wise import goods is different in both the invoices. Also, no payment proof for purchase of said consignment could be provided by the importer. Thus, the admission of Shri Anuj Amarbahadur Singh that he subsequently received another invoice bearing the same number and date from the overseas supplier containing 17 items for the same consignment, clearly indicate that he was arranging preparation of invoices and packing lists as per his own choice through the Chinese suppliers.

19.7.1. Therefore, I consider statements of Shri Anuj Amarbahadur Singh proprietor of M/s ABS International as material evidence in this case and for that I rely on the following rulings from various courts, which have underscored the evidentiary value of statements recorded under Section 108 of the Customs Act, 1962:

- i. In the case of **Surjeet Singh Chhabra Vs. Union of India, 1997 (89) E.L.T. 646 (S.C.)**, the Supreme Court has held that confessional statement made before Customs officer is an admission and binding since Customs officers are not police officers.
- ii. The Madras High Court in the case of **Assistant Collector of Customs v. Govindasamy Ragupathy, 1998 (98) E.L.T. 50 (Mad.)**, held that confessional statement made under Section 108 of Customs Act, 1962 before Customs officers are to be regarded as voluntary.
- iii. The Hon'ble Apex Court in the case of **Naresh Kumar Sukhwani vs Union of India 1996(83) ELT 285(SC)** has held that the statement made under Section 108 of the Customs Act, 1962 is a material piece of evidence collected by the Customs Officials. That material incriminates the Petitioner, inculpating him in the contravention of provisions of the Customs Act. Therefore, the statements under Section 108 of the Customs Act, 1962, can be used as substantive evidence in connecting the applicant with the act of contravention.

In light of the judgments cited above, I am inclined to regard the noticee's statement as material evidence in this case.

19.8. I find that the Show Cause Notices rightly propose confiscation of goods under the provisions of Section 111 (m) of the Customs Act, 1962. Provisions of Section 111 (m) of the Customs Act, 1962 is re-produced herein below:

“any goods which do not correspond in respect of value or in any other particular with the entry made under this Act, shall be liable to confiscation.”

20. Whether imported goods i.e. Physics teaching super magnet 3+ ages are liable for confiscation under section 111(d) and 111(m) of the Customs Act, 1962?

I find that the item declared as “Physics Teaching Super Magnet MKDVR Super Magnet, Physics Teaching, Super Magnetic Force, 3+ Ages” is classifiable under Customs Tariff Heading (CTH) 95030099. The provisions of the **Toys (Quality Control) Order, 2020** are applicable to the said item as it falls within the scope of the Order, which states that:

“This Quality Control Order shall apply to (Toys) — Product or material designed or clearly intended, whether or not exclusively, for use in play by children under 14 years of age, or any other product as notified by the Central Government from time to time.”

Additionally, the Directorate General of Foreign Trade (DGFT), vide Notification No. 20/2015-20 dated 07.07.2022, has made the import of items under CTH 95030099 “Free”, subject to mandatory BIS certification for the said item.

As the importer has failed to furnish BIS certificate in respect of the subject goods and intentionally mis-classified the same with the intent to clear non-BIS compliant goods illegally. This act of omission and commission on the part of the importer rendered the goods liable to be confiscation under section 111 (d) and 111(m) of the Customs Act, 1962.

21. Whether the noticees are liable for penal action?

21.1 As observed in above Para, I find that with the introduction of self-assessment by amendments to Section 17, since 8th April, 2011, it is the added and enhanced responsibility of the importer to declare the correct description, value, quantity, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods.

21.2. Since I have held above that Noticee have rendered the subject goods of the said Bills of Entry as liable for confiscation under Section 111(l) & 111(m) of the Customs Act, 1962, I find that the next issue to be decided is the invocation of Section 112 (a) proposed in the Notice. I find that the Noticees have contended that no penalty can be imposed on the Noticee under section 112(a) of the Act.

21.3. I find that the SCN proposes penalty on the noticee under the provisions of Section 112 (a)/112(b) /114AA of the Customs Act, 1962. Provisions of Section 112 (a) of the Customs Act, 1962 and Section 114AA of the Customs Act, is re-produced herein below:

“SECTION 112. Penalty for improper importation of goods, etc. — Any person, -

- (a) *who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or*
- (b) *who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, shall be liable,-*
- [i] *in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty [not exceeding the value of the goods or five thousand rupees] whichever is the greater*

...

[(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher..."

"SECTION 114AA. Penalty for use of false and incorrect material:-

If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.]

21.4. I find that it is clear from the provision that penalty under Section 112 (a) can be imposed in cases where the acts or omissions on the part of the importer/noticee renders the goods liable for confiscation under Section 111 of the Act. From the discussions so far, I find that the evidences clearly indicating mis-declaration in terms of quantity and mis-classification on their part in respect of the imported goods warranting imposition of penalty under Section 112 (a) as the fact of mis-classification was known to the assessee and not the department on the grounds of self-assessment. Result is that proposal to impose penalty under Section 112 (a) is correct and sustainable in law. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty; therefore, I refrain from imposition of penalty on M/s. ABS International under Section 112(b) of the Customs Act, 1962.

21.5. I find that M/s Senghi Shipping Services were fully aware of the Customs Act, 1962, and CBLR 2018. Therefore, it was responsibility and duty of M/s Senghi Shipping Services to guide the importer regarding correct declaration of the assessable value and CTH of the imported cargo. In his statement of Shri Himanshu Kumar Singh, G-card Holder (CBLMS No. 2015CNAI10509) of M/s. Senghi Shipping Services acknowledges the description based on the documents provided by the importer. He further asserts that he did not seek clarification from the importer regarding the disparities in the descriptions, CTH, Valuation. This admission points to a critical lapse in due diligence on the part of the CHA. As a Customs House Agent, the responsibility extends beyond merely processing the provided documents; it includes ensuring the accuracy and consistency of the information presented. Failing to seek clarification on discrepancies in product descriptions, especially valuation and correct CTH, undermines the agent's role in maintaining the integrity of customs declarations. Therefore, acts of omission and commission on part of M/s. Senghi Shipping Services have rendered the subject import consignment covered under Bill of Entry No. 5831437 dated 27.09.2024, liable to confiscation under **Sections 111(d), 111(l) and 111(m)** of the Customs Act, 1962 and also rendered themselves liable to penalty under **Section 112 (a)(i)** and **112 (a)(ii)** of the Customs Act, 1962. I find that imposition of penalty under Section 112(a) and 112(b) simultaneously tantamount to imposition of double penalty; therefore, I refrain from imposition of penalty on M/s Senghi Shipping Services under Section 112(b) of the Customs Act, 1962.

21.6. I find that the Investigating Agency proposed imposition of penalty on the Importer under Section 114AA of the Customs Act, 1962. I find that in spite of well aware of the nature of the imported goods, importer, consciously mis-declared the description, CTI and value of the goods which found to be incorrect during the course of investigation. These acts of omission and commission on the part of the Proprietor of the importing firm made the

provisions of Section 114AA invokable. Therefore, I agree with the proposal of imposition of penalty on the Proprietor of the Importing firm under Section 114AA *ibid*.

22. In view of the above facts of the case and findings on record, I pass the following order:-

ORDER

- (i). I reject the declared assessable value of the goods in Bill of entry no. 5831437 dated 27.09.2024 i.e. **Rs. 10,26,600/- (Rupees Ten Lakhs Twenty Six Thousand and Six Hundred Only)** under Rule 12 of CVR, 2007 and order to re-determine the same as **Rs. 32,00,310/- (Rupees Thirty Two Lakhs Three Hundred and Ten Only)** in terms of Rule 9 of the CVR, 2007 read with section 14 of Customs Act, 1962.
- (ii). I order to re-assess the Bill of entry no. 5831437 dated 27.09.2024 on the basis of revised valuation and CTH (as per Table No. 4 & 7 hereinabove) to ascertain the actual duty liable. I order to recover the re-determined duty arrived on re-assessment of bill of entry along with applicable interest.
- (iii). I order to confiscation of "Physics Teaching Super Magnet, MKDVR Super magnet" of total pcs. 6396 in 123 cartoons mentioned at sr. no. 3 of Table-4 under Section 111 (d) & 111(m) of the Customs Act, 1962 of re-determined value Rs. 7,90,008/- (Rupees Seven Lakhs Ninety Thousand and Eight only). However, I give an option to the importer to redeem the goods for **re-export** only to its original supplier on payment of Redemption Fine of **Rs. 80,000/- (Rupees Eighty Thousand only)** under the provisions of section 125 of the said Act *ibid*. The option of re-export has to be complied within 120 days of receipt of this order failing which goods should be put to destruction as per the procedure laid down under Disposal Manual and expenses for such destruction shall be borne by the importer, unless an appeal against this order is pending.
- (iv). I order to confiscate the impugned goods imported vide Bill of Entry No. 5831437 dated 27.09.2024 (mentioned in Table-4 except item at sr. no. 3) having re-determined value of Rs. 24,10,302/- (Rupees Twenty Four Lakhs Ten Thousand Three Hundred and Two Only) under Section 111 (l) & 111(m) of the Customs Act 1962. However, I give an option to the importer to redeem the confiscated goods on payment of redemption fine of **Rs. 2,50,000/- (Rs. Two Lakhs Fifty Thousand only)** under Section 125 of Customs Act, 1962 for home consumption.
- (v). I impose penalty of **Rs. 80,000/- (Rupees Eighty Thousand only)** on the importer M/s ABS International under Section 112 (a)(i) of the Customs Act, 1962.
- (vi). I impose penalty of **Rs. 50,000/- (Rupees Fifty Thousand only)** on the importer M/s ABS International under Section 112 (a)(ii) of the Customs Act, 1962.
- (vii). I refrain from imposing penalty on the importer M/s ABS International under Section 112(b) of the Customs Act, 1962.

- (viii). I impose penalty of **Rs. 50,000/- (Rupees Fifty Thousand only)** on the Sh. Anuj Amarbahadur Singh, Proprietor of M/s ABS International under Section 114AA of the Customs Act, 1962.
- (ix). I impose penalty of **Rs. 25,000/- (Rupees Twenty Five Thousand only)** on M/s Senghi Shipping Services under Section 112 (a)(i) of the Customs Act, 1962.
- (x). I impose penalty of **Rs. 25,000/- (Rupees Twenty Five Thousand only)** on M/s Senghi Shipping Services under Section 112 (a)(ii) of the Customs Act, 1962.
- (xi). I refrain from imposing penalty on M/s Senghi Shipping Services under Section 112(b) of the Customs Act, 1962.

23. This order is issued without prejudice to any other action which may be contemplated against the importer or any other person under provisions of the Customs Act, 1962 and rules/regulations framed thereunder or any other law for the time being in force in the Republic of India.

24. The Show Cause Notice bearing no. GEN/ADJ/ADC/527/2025-Adjn dated 27.02.2025 stands disposed in above terms.

**Dipak Zala,
Additional Commissioner,
Custom House, Mundra.**

F.No. GEN/ADJ/ADC/527/2025-Adjn-O/o Pr. Commr- Cus-Mundra

To,

(1) M/s. ABS International,
Shop No. 57, Ground Floor,
Plot No. 55, Sector-15, CBD Belapur,
Navi Mumbai-400614.
(email id: absinternational27283@gmail.com)

**(2) Sh. Anuj Amarbahadur Singh,
Prop. M/s. ABS International**
Shop No. 57, Ground Floor,
Plot No. 55, Sector-15, CBD Belapur,
Navi Mumbai-400614.
(email id: absinternational27283@gmail.com)

(3) M/s. Senghi Shipping Services (CHA),
Office No. 102, Sadguru Empire-1,
Near Rashapir Circle, Mundra, Kutch-370421.
(email id: senghismundra@gmail.com)

Copy to:

1. The Additional Director General, DRI, Gandhidham.
2. The Deputy/Assistant Commissioner, EDI, Customs Mundra.
3. The Deputy/Assistant Commissioner (RRA), Custom House, Mundra.
4. The Deputy/Assistant Commissioner (TRC), Custom House, Mundra.
5. Guard File.